



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPR; MNR; MNDC, MNSD; FF

Introduction

This is the Landlords' application for an Order of Possession; a Monetary Order for unpaid rent and loss of rent, to retain the security deposit in partial satisfaction of their monetary claim; and to recover the cost of the filing fee from the Tenants.

The Landlords gave affirmed testimony at the Hearing.

The Landlords testified that the Notice of Hearing documents were mailed to the Tenants at the rental unit, by registered mail, on June 25, 2010. The Landlords provided the registered mail receipts for both Tenants, along with a copy of the Canada Post Tracking information. The Canada Post Tracking information discloses that the female Tenant picked up her Notice of Hearing documents on June 29, 2010, and that the male Tenant's documents were returned to the Landlords unclaimed.

Section 90 of the Residential Tenancy Act (the "Act") deems service in this manner to be effected 5 days after mailing the documents whether or not the recipient chooses to accept service. I am satisfied that both Tenants were duly served with the Notice of Hearing documents. Despite being served, the Tenants did not sign into the teleconference and the Hearing continued in their absence.

Preliminary Matters

At the outset of the Hearing, the Landlords advised that the Tenants had been evicted by a Bailiff on July 22, 2010, pursuant to a previous Order of Possession. Therefore, the Landlords' application for an Order of Possession is dismissed.

The Landlords provided documents in support of an application for compensation for recovery of the cost of the Bailiff's fees and damages to the rental unit. The Landlords did not amend their Application to include these claims or serve the Tenants with the documents, and are at liberty to make further application should they so desire.

Issues to be Decided

- Are the Landlords entitled to a Monetary Order for unpaid rent and loss of rent, and if so, in what amount?

Background and Evidence

The Landlords gave the following testimony:

The tenancy began on September 16, 2009. Monthly rent was \$1,250.00 per month, due the first day of each month. The Tenants paid rent in the amount of \$300.00 for September, 2009. The Tenants paid a security deposit in the amount of \$650.00 on October 1, 2009.

On April 30, 2010, the Landlords were granted an Order of Possession for unpaid rent, along with a Monetary Order in the amount of \$1,300.00. The security deposit remained available on application by either party, in accordance with the provisions of Section 38 of the Act.

On May 17, 2010, on the Tenants' Application for Review, the Order of Possession and Monetary Order were suspended, the Tenants' Application for Review was granted, and a Review Hearing was ordered.

On July 6, 2010, the Review Hearing took place. The Tenants did not attend and the original Orders of April 30, 2010 were reinstated.

The Tenants provided the Landlords with \$500.00 in May, 2010, and \$1,250.00 in June, 2010. The Landlords could not apply these amounts towards the Monetary Order granted April 30, 2010, because that Order had been suspended at the time.

The Landlords seek a monetary award, calculated as follows:

Loss of rent for May, 2010	\$1,250.00
Loss of rent for June, 2010	\$1,250.00
Loss of rent for July, 2010	\$1,250.00
Less payments made by Tenants	<u>-\$1,750.00</u>
Balance	\$2,000.00

Analysis

Based on the testimony of the Landlords and in the absence of evidence to the contrary from the Tenants, I find that the Landlords have established their claim for loss of rent in the amount of \$2,000.00.

Further to the provisions of Section 72 of the Act, the Landlords may apply the security deposit in partial satisfaction of their monetary award. No interest has accrued on the security deposit.

The Landlords have been successful in their application and are entitled to recover the cost of the filing fee from the Tenants.

I hereby provide the Landlord with a Monetary Order, calculated as follows:

Monetary award for loss of rent	\$2,000.00
Recovery of the filing fee	\$50.00
Less set-off of security deposit	<u>-\$625.00</u>
Balance owing to the Landlords	\$1,425.00

The Monetary Order of April 30, 2010, remains enforceable in the Provincial Court of British Columbia.

Conclusion

I hereby grant the Landlords a Monetary Order in the amount of \$1,425.00 against the Tenants. This Order must be served on the Tenants and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

The Monetary Order issued on April 30, 2010, remains enforceable in the Provincial Court of British Columbia.

The Landlords are at liberty to apply for compensation for the cost of the Bailiff's fees and damages to the rental unit.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: August 24, 2010.

Dispute Resolution Officer